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 Equity Security Holders Of USA Capital First Trust Deed Fund, LLC

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:) BK-S-06-10725-LBR
 USA COMMERCIAL MORTGAGE COMPANY,) Chapter 11
 Debtor.)

In re:) BK-S-06-10726-LBR
 USA CAPITAL REALTY ADVISORS, LLC,) Chapter 11
 Debtor.)

In re:) BK-S-06-10727-LBR
 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,) Chapter 11
 Debtor.)

In re:) BK-S-06-10728-LBR
 USA CAPITAL FIRST TRUST DEED FUND, LLC,) Chapter 11
 Debtor.)

In re:) BK-S-06-10729-LBR
 USA SECURITIES, LLC,) Chapter 11
 Debtor.)

Affects)
☐ All Debtors)
☒ USA Commercial Mortgage Co.) Hearing: May 31, 2007
☐ USA Securities, LLC) Time: 9:30 a.m.
☐ USA Capital Realty Advisors, LLC)
☐ USA Capital Diversified Trust Deed)
☒ USA First Trust Deed Fund, LLC)

**STIPULATION BETWEEN USACM LIQUIDATING TRUST AND USA CAPITAL
 FIRST TRUST DEED FUND, LLC RE AMENDED DISBURSING AGENT
 AGREEMENT (AFFECTS DEBTORS USA COMMERCIAL MORTGAGE
 COMPANY AND USA CAPITAL FIRST TRUST DEED FUND, LLC)**

The USACM Liquidating Trust ("USACM Trust"), by and through the undersigned
 counsel, and USA Capital First Trust Deed Fund, LLC ("FTDF"), by and through the

undersigned counsel for the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the "FTDF Committee"), stipulate:

Background

A On April 13, 2006, the above-captioned debtors ("Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Petition Date").

B. On November 15, 2006, the Debtors filed the "Debtors' Third Amended Joint Chapter 11 Plan of Reorganization" (the "Plan").¹ Pursuant to the Plan, the FTDF was to receive as part of a compromise with USACM a general unsecured claim against the USACM estate in an amount to be determined consensually or through litigation (the "FTDF Unsecured Claim"). The FTDF and the USACM Trust have agreed that the FTDF Unsecured Claim shall be allowed in the amount of \$7.0 million. The Plan provides that all distributions on account of the FTDF Unsecured Claim shall be distributed to the USA Capital Diversified Trust Deed Fund, LLC until it reaches the DTDF 85% Recovery as provided for in the Plan, and once such recovery is reached, any further distributions shall be made to the FTDF.

C. In order to avoid the cost and expense of a separate trust for the FTDF solely to administer the FTDF Unsecured Claim, the Plan provides that the holders of the FTDF Unsecured Claim shall be beneficiaries of the USACM Trust with respect to any distributions to made on such claim, and further provides that the USACM Trust shall make all distributions on account of the FTDF Unsecured Claim directly to holders of Allowed Equity Interests in the FTDF ("FTDF Equity Holders").

D. On December 18, 2006, the FTDF and the USACM Trust filed the Disbursing Agent Agreement which provides that the Geoffrey L. Berman, Trustee of the USACM Trust shall serve as Disbursing Agent for the FTDF upon the termination of the engagement of Mesirow Financial Interim Management, LLC and Thomas J. Allison. The Disbursing Agent Agreement sets forth the terms and conditions for the FTDF's engagement of Mr. Berman as Disbursing Agent for distributions to the FTDF, including distributions on the FTDF Unsecured

¹ Unless otherwise noted, any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Plan.

1 Claim. The Disbursing Agent Agreement provides that all modifications to the Agreement must
2 be approved by the Bankruptcy Court.

3 E. The Bankruptcy Court confirmed the "Debtors' Third Amended Joint Chapter 11
4 Plan of Reorganization" (the "Plan")² at a confirmation hearing held on December 19 and 20,
5 2006, and entered its order confirming the Plan (the "Confirmation Order") on January 8, 2007,
6 including the approval of the Disbursing Agent Agreement. The Plan became effective on
7 March 12, 2007 (the "Plan Effective Date").

8 F. The FTDF anticipates that it will be in a position to close its chapter 11 case
9 shortly and wants to be certain that the Disbursing Agent Agreement is in place to effect any
10 distributions (including distributions on the FTDF Unsecured Claim) to FTDF Equity Holders
11 after its case is closed and its professionals are no longer engaged. The Trustee and the Debtors
12 have requested certain revisions to the Disbursing Agent Agreement in order to effect the
13 transition from FTDF to the Disbursing Agent provided for in the Disbursing Agent Agreement,
14 and the parties have agreed to amend the Disbursing Agent Agreement. A redline of the
15 Amended Disbursing Agent Agreement is attached as Exhibit "A" hereto and the proposed clean
16 Amended Disbursing Agent Agreement is attached as Exhibit "B" hereto.

17 **NOW, THEREFORE**, in consideration of the mutual covenants herein contained and
18 other good and valuable consideration, the receipt and sufficiency of which are hereby
19 acknowledged, the parties agree as follows:

20 1. The Amended Disbursing Agent Agreement as attached as Exhibit "B" hereto is
21 hereby approved and agreed to by the USACM Trust, the FTDF Committee, and FTDF.

22 2. This Stipulation is subject to the approval of the Court.

24 By: /s/ Eve H. Karasik
25 FRANK A. MEROLA (CA State Bar
26 No. 136934),
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27 _____

By: /s/ Rob Charles (#006593)
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28 ² Unless otherwise noted, any capitalized term not otherwise defined herein shall have the
meaning ascribed to such term in the Plan.

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10 Counsel For The
11 Official Committee Of Equity Security Holders
Of USA Capital First Trust Deed Fund, LLC

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15 APPROVED AS TO FORM AND CONTENT:

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17 By: /s/ Steven C. Strong
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23 AND USA CAPITAL FIRST TRUST DEED FUND, LLC.
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